

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UMAR PARACHA,

Plaintiff,

v.

CITY OF WISCONSIN DELLS,
ERIC HELLAND, BRET ANDERSON,
MICHAEL HORKAN AND BRIAN LANDERS,

Defendants.

ORDER

14-cv-524-wmc

On December 17, 2014, *pro se* plaintiff Umar Paracha filed a reply to defendants' affirmative defenses, prompting a motion to strike from the defendants. The court will grant defendants' motion to strike plaintiff's reply. Here's why:

Fed. R. Civ. P. 12(b) permits a defendant in a civil lawsuit to avoid further litigation of the case if the defendant can show that the plaintiff's allegations of fact, even if accepted as true, do not state a legal claim against that defendant. To show this, the defendant has to file a motion to dismiss that cites Rule 12(b).

In *this* case, the defendants have raised certain affirmative defenses in their answer, but they have not filed a motion to dismiss plaintiff's complaint, at least not yet. If they do file a motion to dismiss, then plaintiff will be allowed to respond to it and the court will tell him what date his response is due. In the absence of a motion to dismiss, plaintiff does not need to reply to defendants' answer. Indeed, Fed. R. Civ. P. 7(a) forbids a plaintiff from submitting a reply to an answer unless the court tells him to, and the court has not done that here. The reason is that, pursuant to Fed. R. Civ. P. 8(b)(6), this court automatically assumes that plaintiff has denied the factual statements and affirmative defenses raised in the defendants' answer.

ORDER

IT IS ORDERED that defendants' motion to strike, dkt. 14, is GRANTED. Plaintiff Umar Paracha's reply to affirmative defenses, dkt 13, will be placed in the court's file but will not be considered.

Entered this 31st day of December, 2014.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge